

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
DELTA DIVISION**

**TONIA MASSEY AND GREG MASSEY**

**PLAINTIFFS**

**V.**

**CIVIL ACTION NO. 2:08-cv-243-M-V**

**DESOTO COUNTY, MISSISSIPPI; AND  
DEPUTY ROBERT WHARTON, INDIVIDUALLY**

**DEFENDANTS**

**ORDER**

This cause is before the court on motion of Greg Massey to join the Bankruptcy Trustee, Alex Gates, in his capacity as trustee, and to align him with the plaintiff (#90).

The Bankruptcy Trustee is the sole representative of the Bankruptcy Estate and controls all property of the Estate. *Miller v. Shallowford Comm. Hospital, Inc.*, 767 F.2d 1556, 1559 (11<sup>th</sup> Cir. 1985). Under *Miller*, “the bankruptcy trustee succeeds to all causes of action held by the debtor at the time that a bankruptcy petition is filed.” Consequently, a trustee is a proper and necessary party to prosecute claims belonging to the estate. *Jones v. Harrell*, 858 F.2d 667, 669 (11<sup>th</sup> Cir. 1988). Since the trustee is now the owner of all of the Debtor’s property, he is a necessary party to this litigation. F.R.Civ.P. 17. There has been no objection to this motion filed by the defendants. The court finds the motion to be well taken.

IT IS, THEREFORE, ORDERED that the plaintiffs’ motion for joinder (#90) is hereby GRANTED.

**SO ORDERED** this, the 11<sup>th</sup> day of May, 2012.

/s/ Jane M. Virden  
U. S. MAGISTRATE JUDGE